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20 YUHAAVIATAM OF SAN MANUEL NATION,
21 a federally recognized Indian tribe, also federally recognized as
22 SAN MANUEL BAND OF MISSION INDIANS

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION – RIVERSIDE

29 SAVE OUR FOREST ASSOCIATION,
30 Plaintiff,
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32 v.
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34 UNITED STATES FOREST SERVICE,
35 RANDY MOORE, in his official
36 capacity as Chief of the U.S. Forest
37 Service,

Case No.: 5:24-cv-01336-JGB-DTB

**[PROPOSED] INTERVENOR
YUHAAVIATAM OF SAN
MANUEL NATION’S
OBJECTIONS TO PLAINTIFF’S
“STIPULATION FOR PROPOSED
BRIEFING SCHEDULE” and
WITHDRAWAL OF CONSENT TO**

[PROPOSED] INTERVENOR YUHAAVIATAM OF SAN MANUEL NATION’S OBJECTIONS TO PLAINTIFF’S STIPULATION FOR PROPOSED BRIEFING SCHEDULE 5:24-cv-1336-JGB-DTB

1 CHRISTOPHER FRENCH, in his
2 official capacity as Deputy Chief for the
National Forest System of the
U.S. Forest Service,

4 JENNIFER EBERLEIN, in her official
capacity as Regional Forester for the
Pacific Southwest Region of the
U.S. Forest Service,

6 DANIELLE HARRISON, in her official
7 capacity as Forest Supervisor of the San
Bernardino National Forest of the
U.S. Forest Service,

9 MICHAEL NOBLES, in his official
capacity as Front Country District
Ranger of the U.S. Forest Service,

10 Defendants.

12 YUHAAVIATAM OF SAN MANUEL
13 NATION, a federally recognized Indian
tribe,

14 [PROPOSED] Defendant-Intervenor.
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**CONTINUE 8/4/25 HEARING ON
THE NATION'S MOTION TO
INTERVENE**

Action Filed: June 25, 2024

Trial Date: March 31, 2026

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I. INTRODUCTION

19 [Proposed] Defendant-Intervenor Yuhaaviatam of San Manuel Nation
20 (“Nation”), a federally recognized Indian tribe, hereby objects to the “Stipulation
21 for Proposed Briefing Schedule” filed by Plaintiff on July 14, 2025 (the
22 “Stipulation”). *See* ECF Doc. 62. The Stipulation seeks an order scheduling
23 Defendants’ preparation of the administrative record, and thereafter, deadlines for
24 briefs and a hearing for cross motions for summary judgment. The Court should
25 reject the Stipulation because it seeks to put the proverbial cart before the horse —
26 asking the Court to reach the merits of Plaintiff’s claims before the Court considers
27

1 the Nation's motion to intervene, and if granted, motion challenging the Court's
2 jurisdiction to adjudicate those claims.
3

4 Furthermore, the parties' actions smack of collusive gamesmanship. Neither
5 Plaintiff's counsel nor Defendants' counsel told the Nation's counsel about the
6 planned Stipulation, despite their communications about Plaintiff's desire to
7 continue the hearing on the Nation's pending motion to intervene. The Nation's
8 counsel also was not consulted regarding, and did not consent to, the Stipulation.
9 Given the Nation's pending motion to intervene, together with its motion to
10 dismiss based on jurisdictional grounds, the Stipulation – which is aimed at
moving the case closer to adjudication of the merits – is premature.

11 For the reasons set forth below, the Nation respectfully objects to the
12 Stipulation and requests that the Court decline to enter the Stipulation's requested
13 order. Instead, the Court should first adjudicate the Nation's motion to intervene
14 and, if that motion is granted, the Nation's jurisdictional motion to dismiss, before
15 ordering preparation of the administrative record and setting dates for cross
16 motions for summary judgment. That approach would best serve important
17 considerations of judicial economy and the parties' resources, as well as the
18 Court's fundamental duty to establish its jurisdiction *before* proceeding on the
19 merits. *See In re Ozenne*, 841 F.3d 810, 814 (9th Cir. 2016) ("a federal court must
20 first determine whether it has jurisdiction before reaching the merits of a case")
21 (*citing Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 430–31
22 (2007)).
23

24 II. PROCEDURAL BACKGROUND

25 On March 6, 2025, the Nation filed a motion to intervene. *See* ECF Doc. 38.
26 The motion was accompanied by the required proposed pleading in intervention,
27 *see* Fed. R. Civ. P. 24(c), which is a Motion to Dismiss pursuant to Fed. R. Civ. P.

1 19 for failure to join a required party. *See* ECF Docs. 14-16 ([Proposed] Notice of
2 Motion to Dismiss, [Proposed] Memorandum of Points and Authorities in support
3 of Motion to Dismiss, and [Proposed] Order Granting Motion to Dismiss).

4 Plaintiff opposed the intervention motion on June 16, 2025. *See* ECF Doc. 55.
5 The Nation filed its reply brief in support of intervention on June 23, 2025. *See id.*
6 57. Defendants filed no response to the Nation's intervention motion.
7

8 The intervention motion was calendared for hearing on June 9, 2025, which
9 hearing date was continued to July 7, 2025, by stipulation of all counsel. *See* ECF
10 Doc. 50 (stipulation); *id.* 52 (Order continuing hearing to 7/7/2025). On July 2,
11 2025, the Court *sua sponte* continued the hearing again to August 4, 2025. *See id.*
12 59.

13 On July 7, 2025, Plaintiff's counsel emailed counsel for Defendants and the
14 Nation, seeking a stipulation to continue the hearing on the Nation's motion to
15 intervene, ostensibly so Plaintiff's counsel could attend the hearing in person rather
16 than remotely as she had a vacation planned for August 4th. That same date the
17 Nation's counsel agreed to a new hearing date of September 15, 2025. Also on
18 July 7, 2025, Defendants' counsel replied that "I think I can do September 15 . . ."

19 When seeking a stipulation to continue the hearing date, Plaintiff's counsel
20 never told the Nation's counsel about her plan to seek preparation of the
21 administrative record, let alone, ask the Court for a briefing and hearing schedule
22 for cross-motions for summary judgment. Nor did Defendants' counsel mention
23 the issue when communicating with the Nation's counsel. The Nation first learned
24 yesterday of the parties' stipulation regarding preparation of the administrative
25 record and briefing schedule for cross-motions for summary judgment when
26 Plaintiff filed it, along with a proposed order, on July 14, 2025. *See* ECF Doc. 62.
27 Accordingly, when the Nation agreed to Plaintiff's counsel's request to continue
28 the hearing on its motion to intervene from August 4, 2025, to September 15, 2025,

1 it did so without knowing that Plaintiff and Defendants planned to seek to advance
2 the case to a resolution on the merits, despite the Nation's pending effort
3 challenging the Court's very jurisdiction to adjudicate the merits.

4 **III. THE NATION'S OBJECTIONS TO THE STIPULATION**

5 The Nation's proposed motion to dismiss presents a threshold jurisdictional
6 challenge to this lawsuit, namely that the lawsuit should be dismissed because the
7 Nation is a required party that cannot be joined pursuant to Federal Rule of Civil
8 Procedure 19. *See ECF Doc. 38-15.* Until the Court adjudicates the Nation's
9 pending motion to intervene and, if granted, its jurisdictional motion to dismiss, the
10 Court's jurisdiction to adjudicate Plaintiff's claims is in question, and it is
11 premature to proceed with the administrative record's preparation. Similarly, and
12 more fundamentally, until the Court determines its jurisdiction under the Nation's
13 motion to dismiss, it is premature to set a briefing schedule for the Court to reach
14 the merits on cross-motions for summary judgment — motions that, the Nation
15 contends, the Court lacks jurisdiction to adjudicate. *See In re Ozenne*, 841 F.3d
16 810, 814 (9th Cir. 2016) (“a federal court must first determine whether it has
17 jurisdiction before reaching the merits of a case”) (*citing Sinochem Int'l Co. v.*
18 *Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 430–31 (2007)). *See also see also*
19 *United Investors Life Ins. Co. v. Waddell & Reed, Inc.*, 360 F.3d 960, 966 (9th
20 Cir.2004) (“[A] district court's duty to establish subject matter jurisdiction is not
21 contingent upon the parties' arguments,” *citing Mitchell v. Maurer*, 293 U.S. 237,
22 244 (1934)); *see also Attorneys Trust v. Videotape Computer Products, Inc.*, 93
23 F.3d 593, 594–95 (9th Cir.1996) (lack of subject matter jurisdiction may be raised
24 at any time by either party or by the court *sua sponte*); *Thiara v. Kiernan*, No.
25 C06–03503 MJJ, 2006 WL 3065568, *2 (N.D. Cal. Oct.25, 2006) (“A district court

1 has an independent obligation to examine whether removal jurisdiction exists
2 before deciding any issue on the merits”).
3

4 **IV. THE AUGUST 4, 2025, HEARING ON THE NATION’S
5 MOTION TO INTERVENE SHOULD REMAIN ON
6 CALENDAR**

7 When the Nation agreed on July 7, 2025, to Plaintiff’s desired stipulation to
8 continue the August 4, 2025, hearing on the Nation’s motion to intervene, it did so
9 without knowing Plaintiff’s counsel planned to ask this Court to order preparation
10 of the administrative record and setting a briefing schedule for cross-motions for
11 summary judgment. Had Plaintiff disclosed those facts, the Nation would not have
12 consented to continuing the hearing because doing so disadvantages the Nation and
13 wastes its resources under the present circumstances which Plaintiff did not
14 disclose. It is, quite clearly, an effort to invite the Court to address the merits of
15 Plaintiff’s claims, before the Nation’s jurisdictional challenge is resolved.
16 Therefore, for the reasons set forth above, and given that the Court has not yet
17 continued the hearing, the Nation hereby withdraws its consent to continuing the
18 August 4, 2025, hearing. Plaintiff should not be rewarded for knowingly
19 withholding material facts when soliciting the Nation’s consent.

20 The Nation’s motion to intervene is fully briefed and ready for argument.
21 The Nation respectfully requests that the Court keep the hearing on its intervention
22 motion on calendar on August 4, 2025, as set by the Court’s Order. See ECF Doc .
23 59 (July 2, 2025 Order).

24 **III. CONCLUSION**

25 For the foregoing reasons, the Nation respectfully requests that the Court
26 reject Plaintiff’s proposed schedule for preparing the administrative record and
27 briefing schedule for cross-motions for summary judgment, until the Court has

1 adjudicated the Nation's motion to intervene and, if intervention is granted, the
2 Nation's motion to dismiss under Rule 19. In addition, the Nation respectfully
3 requests that the Court leave the August 4, 2025, hearing on calendar to hear the
4 Nation's motion to intervene.

5 DATED: July 15, 2025

Respectfully submitted,
6 LAW OFFICE OF FRANK LAWRENCE

7 By /S

8 Frank Lawrence, Esq.
9 Attorneys for Specially Appearing (Proposed)
10 Intervenor Yuhaaviatam of San Manuel Nation

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28 [PROPOSED] INTERVENOR YUHAAVIATAM OF SAN MANUEL NATION'S OBJECTIONS TO
PLAINTIFF'S STIPULATION FOR PROPOSED BRIEFING SCHEDULE 5:24-cv-1336-JGB-DTB